WATER ALLOCATION
PROGRAM ADVISORY COMMITTEE

MEETING PROCEEDINGS
Thursday, March 27, 2003

1. COMMITTEE REPORTS

A. Committee Leader Reports

Mr. Dan Varin, Chair of the RI Water Resources Board, introduced Kathy Crawley and Connie McGreavy, water allocation program staff. Ms. Crawley explained the format for this section of the agenda, which consisted of brief reports by committee leads, followed by an in-depth presentation by the Water Rights Committee.

Out-of-Basin Transfer: Mr. Cute, committee lead, reported that the committee was refining its definition of "basin" and "out-of-basin transfer". The committee is researching whether there are interstate agreements in place in other states concerning OOBT. Mr. Cute offered to distribute a map generated by the committee to others upon request.

Priority Uses: Mr. O'Brien, committee lead, reported that the committee was compiling a list of criteria that could be adapted for all basins.

Stream Flow Standards: Ms. Good, committee lead, reported that the committee was investigating a presumptive standard based on the US Fish & Wildlife's Aquatic Based Flow (ABF) standard. This could be tailored to Rhode Island. The committee will look at site-specific methodologies that are based on science, yet are cognizant of stakeholder concerns regarding new regulation.

Water Rates, Fees & Alternatives: Ms. McGreavy reported that the committee was analyzing rate structures for major public water suppliers. The task was twofold: to gauge how water is priced and whether/how to assess a "Demand Side Management" fee, similar to the electric and gas industries.

Education and Public Relations: Ms. McGreavy reported that the committee had prepared a one-page, water allocation program awareness brief to be circulated through various list-serves. The committee was also engaged in grant research to benefit the WAPAC. Ms. Kerr added that a USEPA grant application had been submitted for a special edition of *The WaterFront Magazine*.

Integrated Water/Wastewater: Ms. McGreavy reported that the committee was exploring various demonstration projects using Nutrient Enriched Water "NEW". The idea is to find ways to keep water in the basin of origin.

Impact Analyses Ms. Crawley reported that the committee was assessing the safe yields of major public water suppliers, particularly those in the Wood Pawcatuck watershed.

Joint Advocacy &Funding Ms. Crawley reported that this committee has not met.

Water Use Reporting: Mr. Meyer, committee lead, reported that the committee was examining existing water use data reporting and permitting programs. He explained that some data is actually calculated and measured while some data is estimated using coefficients.

Mr. Reitsma of the RI Dept. of Environmental Management acknowledged that the state does not have adequate data. He asked if there was any reason why Rhode Island should not require data reporting for water use over a certain threshold. He believed this was a key question for the WAPAC. Ms. Katherine Wallace, a student at Brown University proposed a surcharge on water use that would be administered by the US Geological Survey to gather water data across the state. Mr. Griffith stated that the user ultimately pays, whether through a surcharge or as part of the water rate. Mr. Reitsma asked how efficient data collection efforts were in the state, and whether they could be streamlined. Mr. Griffith agreed that existing rules should be reviewed. Ms. Scott noted data collection gaps in the Water Supply Systems Management Planning process. Mr. Bettencourt of the RI Farm Bureau spoke out against mandatory water use reporting. Mr. Reitsma agreed with Ms. Scott in terms of the need to understand what the data priorities are, what is the best way to report data, and whether we need better means of estimating water use.

Mr. Thompson of the Roger Williams University School of Law stated that Rhode Island needs to define a long-term water rights structure. He listed two basic approaches:

- ∑ A fully regulated system where users register water use over a certain threshold, during normal times and in drought;
- ∑ A system where all users register water use only during periods of water shortage or drought.

Mr. Thompson explained that the key was having more data collection to support a long-term water rights structure.

B. Water Rights Committee Presentation- Regulatory Authority Concerning Water and Wastewater in Rhode Island

Ms. Caroline Karp of Brown University was elected to present the findings of the Water Rights Committee regarding regulatory authority. She presented several large format diagrams, explaining the logic behind each one. (See attached.)

- The diagrams are electronically linked to/from a graphic depicting the water use cycle. It will be necessary to have various iterations of the diagram at each major point in the cycle;
- Only authorities in RI are on the diagram—CT and MA counterparts will be added later;
- Only authorities that have water-related regulatory programs are depicted and only primary programs. Advisory, research and financing entities can be depicted on a separate diagram later, if time;
- Boxes within various groups on the diagram (entities) can be linked to enabling legislation, local ordinances and/or legal agreements, such as those between water suppliers;
- Boxes within various groups on the diagram (regulations) can be linked to full text regulations;
- Local and state government entities can be mapped to depict regional jurisdictions/overlap.

Ms. Karp explained that there were three primary goals associated with visually depicting regulatory authority:

- To illustrate the institutional complexity associated with every stage of the water cycle;
- To identify where there are gaps or overlap in current regulation that might lead to potential water rights conflicts;
- To provide an interactive, web-based tool that would enable planners and interested members of the public to understand the governance of water and wastewater.

Water Use Diagram (Source: US Geological Survey)
This diagram was originally presented to illustrate the relations among water use processes as depicted in the New England Water Use Data System. Arrows represent conveyances of water from point of withdrawal to return flow. Boxes for self-supplied water and unaccounted for use will be added. Ms. Karp added that the diagram could be modified to depict contamination, which results in loss of supply.

Water and Wastewater Regulatory Authorities in RI
Ms. Karp indicated that federal laws and regulations prevail; in Rhode Island, some state agencies have been delegated federal authority. Ms. Karp felt that the State Guide Plan (SGP) should be added to the diagram because local actions must be consistent with state plans. She also noted that water and wastewater users are subject to local codes, zoning ordinances and other legal agreements between suppliers, other states and Indian tribes.

Water Planning Authorities in RI
Discussion of this diagram focused on the various plans, many of which are advisory. It was noted that state and local plans must be consistent with federal plans. Ms. McGreavy referred to RI Coastal Resources Management Council's Special Area Management Plans (SAMPs) as "enforceable policies". Along with the SGP elements, SAMPs may also be added to the regulatory authority diagram, pending confirmation from CRMC's attorney.

Local Water Regulatory Authorities in RI
This diagram primarily depicts the 31 major public water suppliers, six of which are regulated by the Public Utilities Commission. Over 440 small systems are self-regulated. All major public suppliers are required to submit Water Supply Systems Management Plans.

Local Wastewater Regulatory Authorities in RI
This diagram depicts the 12 local authorities and 6 regional authorities, of which the Narragansett Bay Commission (NBC) is the largest. NBC is regulated by the Public Utilities Commission. Not shown are seven package treatment plants and eight industrial plants that are self-regulated.

Regulatory Authority during a Water Shortage
Ms. Karp noted that water quantity and water quality are inextricably linked—a water shortage may result in a water quality emergency and vice versa. She pointed out that organizational response varies with the type and level of emergency, and asked whether there should be amore consistent response during times of water shortage. For instance, regional shortages may require coordination by the RI Emergency Management Agency and one or more water suppliers. Coordination by state and local police may also be necessary during local emergencies. Ms. Karp noted that this process already revealed a discrepancy between the state's Emergency Operations Plan and the diagrams, in that the authority for the Public Utilities Commission during water emergencies was omitted on the state plan. Ms. McGreavy pointed out that the Governor has the ultimate authority under an extreme emergency, and that the RI Dept. of Transportation would be the primary agency in a water quantity emergency that involved water lines.

C. Discussion
Mr. Thompson, lead of the Water Rights Committee, emphasized the eventual, interactive nature of the diagram. Mr. Ayars of the RIDEM, asked how exemptions from the regulations—specifically, agriculture—would be noted on the diagrams. Ms. Karp explained that the diagrams were a work in progress, but that footnotes could be added to note exemptions. She agreed with Mr. Thompson that links to statutes from boxes on the Water Use Diagram would help a user understand who needed to comply with which rules. Ms. Karp next asked whether thee was sufficient coordination among the multiple agencies responsible for

water management. Mr. Griffith, Board member, clarified that the 440+ public water suppliers were categorized according to a definition devised by the RI Dept. of Health, and that self-supplied water users are not included. He added that agricultural water use could exceed the amount of water used by small suppliers taken together. Ms. McGreavy stated that only rules, which had been filed electronically with the Sec. of State by January 2001, are currently in force.

Mr. Guy Lefevbre of the Pawtuxet Water Authority felt that the rights of ecosystems were integral; he asked whether the Sierra Club could legally represent the environment in court. Ms. Kendra Beaver of Save the Bay asked which regulations exempt agriculture. Mr. Ayars responded that farmers were exempt from the wetlands and water quality certification permit processes. Ms. Crawley added that there is debate within the Water Rights Committee regarding the provisions of water allocation law in §46-15.7 (5). Mr. Cute of the RI Coastal Resources Management Council added that SAMPs could restrict the movement of water out of a basin.

2. ADOPTION OF OVERARCHING MISSION AND GUIDING PRINCIPLES

Ms. Crawley referred to the mission and goals statement in the packet. Liz Scott of DEM offered to work on revising the language relating to minimizing stream flow depletion, among other things. Mr. Thompson cautioned that "business as usual" might not be possible under a new water rights structure. Mr. Griffith stated that it would be important to recognize impacts and strive not to put any users out of business. Mr. Thompson countered that in some states, the threat of temporary closings were incentives for businesses to use water efficiently. Ms. Crawley and Ms. Scott will work up new language in time for the next meeting.

3. WORK PLAN DEVELOPMENT AND TIMELINE

Ms. McGreavy referenced the timeline provided in the packet and suggested that this item would be taken up in more detail at the next meeting.

4. OTHER BUSINESS

The next meeting of the WAPAC was announced for Thursday, April 24, 2003 at 9AM.

Attachments: Diagrams Depicting Water and Wastewater Regulatory Authority

Prepared by Connie McGreavy
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